

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, November 23, 2005, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska

MEMBERS IN ATTENDANCE: Jon Carlson, Gene Carroll, Dick Esseks, Gerry Krieser, Roger Larson, Melinda Pearson, Mary Strand, Lynn Sunderman and Tommy Taylor; Marvin Krout, Ray Hill, Mike DeKalb, Brian Will, Tom Cajka, Jean Walker and Teresa McKinstry of the Planning Department; media and other interested citizens.

STATED PURPOSE OF MEETING: Regular Planning Commission Meeting

Chair Jon Carlson called the meeting to order and requested a motion approving the minutes for the regular meeting held November 9, 2005. Motion for approval made by Larson, seconded by Carroll and carried 9-0: Carlson, Carroll, Esseks, Krieser, Larson, Pearson, Strand, Sunderman and Taylor voting 'yes'.

CONSENT AGENDA

PUBLIC HEARING & ADMINISTRATIVE ACTION

BEFORE PLANNING COMMISSION:

November 23, 2005

Members present: Carlson, Carroll, Esseks, Krieser, Larson, Pearson, Strand, Sunderman and Taylor.

The Consent Agenda consisted of the following items: **CHANGE OF ZONE NO. 05077; SPECIAL PERMIT NO. 1790A, an amendment to the LONGVIEW 1ST ADDITION COMMUNITY UNIT PLAN; SPECIAL PERMIT NO. 05053; SPECIAL PERMIT NO. 05054; SPECIAL PERMIT NO. 05055; and COMPREHENSIVE PLAN CONFORMANCE NO. 05014.**

Ex Parte Communications: None.

Item No. 1.1, Change of Zone No. 05077, and Item No. 1.2, Special Permit No. 1790A, were removed from the Consent Agenda and scheduled for separate public hearing.

Larson moved to approve the remaining Consent Agenda, seconded by Taylor and carried 9-0: Carlson, Carroll, Esseks, Krieser, Larson, Pearson, Strand, Sunderman and Taylor voting 'yes'.

Note: This is final action on Special Permit No. 05053, Special Permit No. 05054, Special Permit No. 05055 and Comprehensive Plan Conformance No. 05014, unless appealed to the City Council by filing a letter of appeal with the City Clerk with 14 days of the action by the Planning Commission.

SPECIAL PERMIT NO. 1790A,
AN AMENDMENT TO THE
LONGVIEW 1ST ADDITION COMMUNITY UNIT PLAN,
ON PROPERTY GENERALLY LOCATED
AT S.W. 47TH STREET AND W. VAN DORN STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

November 23, 2005

Members present: Pearson, Sunderman, Strand, Larson, Taylor, Carroll, Esseks, Krieser and Carlson.

Staff recommendation: Conditional approval.

Ex Parte Communications: None.

This application was removed from the Consent Agenda due to a letter from a neighboring property owner requesting a deferral.

Proponents

1. **Hub Hall**, 2320 S. 48th Street, the developer of Longview Estates, presented the application. He has been working on this subdivision for a long time, with the sanitary sewer being installed two years ago and the hard surface road constructed in phase two. Then the NDEQ told them to wait because there was not enough lagoon capacity. NDEQ said a lagoon could be constructed on property adjacent and Planning agreed as long as both properties had the same lot line and that it could be done by administrative amendment. Hall purchased 10 adjoining acres of pasture land at \$150,000 and it will cost another \$200,000 to build the lagoon. Hall indicated that he will have a hard time breaking even after all the delays and the cost of the infrastructure just sitting there for over two years.

Hall believes this is a great subdivision, and he does not want any more delays. It needs to be finished, and he requested approval of this amendment.

2. Brian Chaffin, of Olsson Associates, who has been involved with design of the third lagoon, testified, reiterating that this lagoon is needed to finish the build-out of this development. It does not increase the density or add new lots. These are complete detention lagoons. Outlot B has always been designated a wastewater treatment outlot. The third lagoon will be located as far as possible to the south from the adjacent property. The water will not be raw wastewater. It will have three treatment processes before it ever gets to that lagoon. Constructed wetlands will be the first treatment method for that wastewater. It will go through a septic tank prior to going through the constructed wetlands, with 4-5 days of retention with treatment within the wetland, and then into the two existing complete retention lagoons. Only when those retention lagoons get full will it go into the third lagoon. The third lagoon is truly a polishing pond. A very high quality of wastewater will be coming down into this third lagoon. This is the best solution to get the needed capacity to finish a very well managed and developed housing development.

Chaffin pointed out that there are some letters that have been submitted in support. Everything that has been done with the third lagoon has been approved by DEQ and the developer has a construction permit for the third lagoon. All of the regulatory agencies have been satisfied with the design of the third lagoon.

Chaffin confirmed that there is currently capacity for 33 lots. The third lagoon is necessary to serve the remaining 17 of the 50 lots at full build-out. There are 22 lots that are built at the present time.

Chaffin also confirmed that there is natural wetland all the way through the drainage way. It has been delineated and they have a permit from the Corps of Engineers. They will be mitigating the wetlands on a 2:1 ratio with 50' buffer strip. The lagoon is wedged between the gas line, power line and the wetland. The water is going to be very high quality and it is complete detention. There will be no discharge from any of these lagoons.

Opposition

1. Bill Nelson, 2041 S.W. 47th, adjacent to Longview Estates, testified in opposition with the following questions:

- Is the third lagoon being constructed in a natural waterway?
- Will the third lagoon honor the LES easement?
- Will the natural wetlands be destroyed?
- Will this be a closed cell lagoon system or can permits be issued to discharge lagoon water?
- The second wetland site is being installed by a contractor as we are speaking. I thought this was part of 1790A. Why has this work started before being approved?

- The first lagoon was totally drained and rebuilt last spring because it would not hold water. At the present time this lagoon holds very little water. The average water usage per household is 300 to 350 gpd (NDEQ figures). With the existing 18 homes on this system, that is approximately 6,000 gpd, or 180,000 per month. Where is all of this water going?
- The first lagoon is a health concern because it only maintains inches of water. The Health Department requirements for a lagoon is to maintain two feet of water with no vegetation. This lagoon is a very good place for mosquitoes to multiply.
- The original plat for Longview Estates was for 50 homes with one wetland cell and one 4-5 acre lagoon. Why was the second lagoon needed and now the third, plus a second constructed wetlands area? What went wrong? Will someone please stand up and say that mistakes have been made and those mistakes will be corrected for future projects?

Mr. Nelson's concerns are not with the subdivision, but that building, health and environmental codes are met and maintained for existing property owners and future homeowners.

Nelson pointed out that the north lagoon is currently bone dry. There is no water in it. And there hasn't been any water in it all summer long. He believes they are supposed to maintain two feet of water pursuant to NDEQ requirements.

2. Irma Sarata, 2000 S.W. 47th, just north of the subdivision, testified in opposition. She lives in High Ridge Acres and most of the owners have lived there about 30 years. They are not opposed to progress, but things should be done correctly. No one talked to the property owners ahead of time about this proposal.

3. Ed Vader, 4901 W. Mulberry Street, testified in opposition. His property is just on the edge of the extension of the boundary line. It covers about 3/4 of the back of his property. No one has said anything about this to him. He advised that Mulberry Street runs over with water quite often. His neighbor's driveway gets washed out from a one to two inch rain. How are they going to control water coming from the last finishing pond?

Staff questions

Strand asked for staff's reaction to the questions and concerns raised by the opposition. Tom Cajka of Planning staff advised that NDEQ did issue a construction permit for the third lagoon. When the development was approved back in December of 1999, the original CUP showed one lagoon and a wetland filtration system was supposed to be used. The design had some flaws and it did not work the way it was intended, so the second lagoon was constructed. That still did not address everything in order to do the full build-out of 50 lots and Building & Safety stopped issuing building permits. In order to build all 50 lots, the third lagoon is needed. They

are also constructing a second wetland area up by the northern lagoon. Cajka agreed that there will be no raw sewage going into the third lagoon.

Charles Duerschner, engineer with **NDEQ** confirmed that NDEQ has been reviewing this project for about 4 years. The problem was due to inaccurate seepage rates being used in the original single cell lagoon design. The design engineer assumed a very high seepage rate where a lot of the lagoon water would seep into the ground. When that was compared with the actual geo-technical tests that were performed in the lagoon liner of the original lagoon, there was a huge discrepancy. So the capacity of the first lagoon was determined to actually be 17 lots. If NDEQ had approved that lagoon for the entire subdivision, even before the full build-out occurred, that lagoon would have been overflowing wastewater and the homeowners association would have a problem. That was why limits were put on the number of building permits that would be issued; and that is why the second lagoon was proposed; and now why the third lagoon is necessary.

Duerschner went on to suggest that it probably is not possible for engineers to design a complete retention lagoon perfectly that will be adequate and perfectly sized for a 20 or 30 year development like this. But DEQ has taken the best available information on how many people will be living in the subdivision, how much water use they are likely to generate, the evaporation rate that is a long term average, and the seepage rate that was determined by professional engineers – they put all those variables into the design calculations and if they are correct, then the third lagoon is absolutely necessary to provide complete retention wastewater use for this subdivision.

Duerschner confirmed that DEQ has issued construction permits for the north constructed wetland area and for the third lagoon (the west lagoon). Olssons has the same data that DEQ has. They have correctly designed the third lagoon. If the water use 10 or 20 years from now is different than has been assumed, then this lagoon system may either be too large or too small. However, Duerschner believes that the numbers that were used are reasonable. This is why the second and third lagoon were needed. The soils at this site are so tight with such high clay content it appears that there is virtually no seepage here.

Carroll inquired about the fact that there is lack of water in the lagoons now. Duerschner stated that at this time, you would expect the evaporation rate over the large surface area of those two lagoons to exceed the influent rate. In order to keep water in the cells, you would have to add well water with the few people that are living there now. He believes the developer will be adding well water to protect the lagoon liner.

Pearson inquired whether the two feet of water is a requirement. Duerschner stated that it is not a regulation but a guideline. Most of the existing homes are sewer to the south lagoon. There are two separate sewer systems. To keep water in the north lagoon, you would need to put well water into it, and there is a well available. The raw wastewater goes through wetland cells, then discharges into the north and south lagoons. The only water that would go

to the third lagoon would be overflow from the two existing lagoons. It would be fairly well treated.

In the interest of public health of the residents living both to the north and to the east, Esseks inquired as to what kind of risk there would be for overflow in the third lagoon. What would be the worst case scenario? Duerschner suggested that short of a catastrophic rain event, the lagoon is designed to overflow through a pipe. It does not overflow over land. It would be transferred by a pipe to the west cell. It will not discharge to the ground surface. The third lagoon is sized such that it would never discharge to the neighborhood north of Longview.

Esseks inquired as to the types of odors or nasty contaminants that might be in the third lagoon. Duerschner believes that the third lagoon will have the best aesthetics of the three. The water that is entering it will be cleaner than the water entering the two existing lagoons. It should be the most pleasant to the area. The water that goes to the west lagoon will already have received a lot of detention time.

Esseks asked whether there is any evidence that it will be largely, if not completely, odor free. Duerschner did not have any evidence.

Response by the Applicant

Chaffin stated that the third lagoon will infringe upon an existing wetland system and that wetland will be mitigated at a 2:1 ratio. They have a permit from the Corps of Engineers. There will be twice as much wetland put back. They will seed and enlarge the existing wetland.

They have looked at the hydrology of the surrounding ground - the drainageway will remain open with the proper side ditches to divert water around the lagoon. The rain water will flow once it gets into the natural waterway. Chaffin was not involved in the design of the first or second lagoon. But, he assured that from the time he has been involved with the design of the third lagoon, everything has been done correctly as far as sizing and drainage practices. You can cross an easement with pipeline and they have talked with LES. There will be more natural wetland out there when they get done than there is now. This will be a closed cell. There will be no discharge and it will be designed like any other cell in the State of Nebraska. The constructed wetland was a requirement of the original permit. That is not a part of this third lagoon.

As far as no water in the south lagoon, Chaffin submitted that with the number of homes being used, there is not enough water to build up in the south lagoon. He does not believe there is anything wrong with the pipe or constructed wetland that feeds that lagoon. They will put well water in the lagoon. This is a capacity issue and the third lagoon is needed to get full build-out

of the development. He assured that everything is being done correctly with sound engineering practices on the third lagoon.

Pearson observed that there are going to be 50 homes. So 25 will go to one lagoon and 25 to the other. And there is currently half that number of homes built. So if both of the existing lagoons are basically empty, why the third lagoon? Chaffin suggested that there are currently just enough homes on the south lagoon that the evaporation and seepage can keep up. The lagoons are designed to fill over a 20-year period so you have to overcome the effects of seepage and evaporation before you put any water into it. The water levels will climb once there are more homes constructed. Right now it might look like overkill, but you need to construct the capacity for 50 homes now as opposed to piecemeal as you go along.

ACTION BY PLANNING COMMISSION:

November 23, 2005

Strand moved to approve the staff recommendation of conditional approval, seconded by Carroll.

Strand believes the project needs to be finished right.

Motion for conditional approval carried 9-0: Pearson, Sunderman, Strand, Larson, Taylor, Carroll, Esseks, Krieser and Carlson voting 'yes'. This is final action, unless appealed to the City Council within 14 days.

CHANGE OF ZONE NO. 05077,
THUNDERSTONE PLANNED UNIT DEVELOPMENT,
ON PROPERTY GENERALLY LOCATED
AT N.W. 32ND STREET AND WEST O STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

November 23, 2005

Members present: Pearson, Sunderman, Strand, Larson, Taylor, Carroll, Esseks, Krieser and Carlson.

Staff recommendation: Conditional approval.

Ex Parte Communications: None.

This application was removed from the Consent Agenda at the request of the applicant.
Proponents

1. Mark Hansen of Thunderstone, presented the application to build what is considered a light industrial complex in H-3 zoning. Hansen suggested that his business does not fit the

industrial setting. His business is really aesthetically more retail oriented. He will spend a considerable amount of money for landscaping, etc., in front of the building. Thunderstone currently has 35 employees and expects to add 10 in the first 12 months of occupancy of the new building.

With regard to Condition #1.1.3 (Delete the note about a median opening and show a full median on West O Street across from the entrance.), Hansen explained that all of the employees live in Lincoln, so between now and the time the Highway Department changes things in 2012, he is requesting to be allowed to do a little bit of construction to allow his employees to use that median access. The hours of his business are 7:00 a.m. to 4:30 p.m.. The trucking that services Thunderstone with both raw materials and product leaving could certainly be policed by himself to make sure they come in from the east and leave on the west and make a u-turn at Shoemakers.

2. J.D. Burt of Design Associates, 1609 N Street, appeared on behalf of the applicant and requested that Condition #1.1.3 be deleted. He submitted a copy of the 1991 construction plan prepared by the NDOR showing the median opening constructed by NDOR. The access afforded this property is classified as a non-restricted driveway, which means not restricted to agricultural uses or residential uses. Any type of use is permitted. Burt suggested that when the State designed this roadway, they knew the zoning, they knew that at some point this property would be developed and they knew that there would be some commercial traffic in and out of that median opening. This applicant would like to modify that median opening slightly to take care of the employees. The plan shows a future frontage road that is going to be constructed by the state which will give Thunderstone access to a median in 2012. This is a request for temporary use of the existing median opening. Burt then submitted an exhibit showing median openings that exist along West O Street, pointing out that this is not an unusual situation on West O Street, and taking the position that this light manufacturing operation with 45 employees and limited truck traffic is going to contribute less to the traffic on West O Street than a subdivision with 35 acres of industrial land that accesses at SW 32nd Street, for example.

Burt also requested that Condition #1.1.8 be amended to delete Items #4.1 and #4.2 of the Public Works comments dated November 8, 2005, regarding closing of the median and construction of a right turn lane. They already have a right turn lane and should not be required to construct a right turn lane.

Burt also pointed out that this is being submitted as a PUD only because of the land use issue. If Thunderstone were to leave their production at their existing location and move their inventory storage and sales area to this building at this site, they would not be here. This application is a land use issue dealing with strictly light manufacturing which is not allowed in H-3. Without the PUD, Thunderstone would be applying for a building permit which would not

require stormwater detention. That is why they are asking for that waiver. There is a large drainage ditch along the west property line that serves as a natural drainage basin and it is shared with the neighbor. If Thunderstone were to build a stormwater facility in that ravine, they would be dealing with 60 plus acres of upstream drainage and needing to deal with the neighbors as well as some damage to wetlands.

There was no testimony in opposition.

Staff questions

Taylor asked staff to respond to the median and stormwater detention issues. With regard to the median opening, Dennis Bartels of Public Works stated that there is a lot of traffic and it is dangerous to slow down in the through lane to make the left turn movement. In its proposed project, the state is proposing to eliminate some of the openings that exist and provide protected left turns. Ultimately, the applicant will need a permit from NDOR and

NDOR will then ask Public Works for their professional opinion before NDOR will review it and make the final approval. Bartels advised that Public Works will not recommend to the state that they approve because in the professional opinion of Public Works staff, it is not safe.

Taylor then asked Bartels to explain why EDM has a median opening. Bartels explained that EDM was there before the building was there. They did get approval from the state when they platted the property. It is one of the projects identified in the West "O" Blight Study. There is a signal and a median opening and this project was also identified with the West O Redevelopment Plan.

Bartels stated that he would agree that the applicant not be required to construct the right turn lane.

With regard to the waiver of stormwater detention requirements, Bartels suggested that if the applicant were to come in for a building permit, there is no requirement for stormwater detention, but it was the opinion of Public Works that detention was a good principle with a PUD. Public Works did not receive any evaluation of the increase in flow from the applicant to justify the waiver. Public Works is not recommending approval of the waiver unless the applicant provides further justification for it. Unless the waiver is approved, the applicant would be required to provide the stormwater detention. It leaves Public Works in a bind if there is not enough information to justify the waiver. Bartels indicated that he was not saying the waiver should be approved or disapproved, but there is not enough hydrologic information to know what natural detention is provided by the O Street culvert. There needs to be further justification provided for the waiver.

If the waiver is denied, Taylor wondered whether there is any recourse that they could use to go back and get the studies and then present it to the City Council to get the waiver approved. Bartels suggested that if the applicant provides the justification, they could get the waiver approved at the City Council.

Strand discussed the traffic pattern. She believes the median will be important. Bartels suggested that the employees could potentially make a u-turn at the signal just to the east. Strand does not believe u-turns are allowed at that intersection. She does not want to tell the employees that they have to flip an illegal u-turn to get into work. Bartels suggested that Public Works would approve a median opening if they constructed a left turn lane into the site on a temporary basis.

Carlson pointed out that there is a proposed service road that comes from the south to provide a median opening. Bartels concurred that that is how the state proposes to provide access to those properties. They are proposing frontage roads to get these multiple properties to an access, tentatively in 2011-12, but the funding is not firm. Strand believes that this applicant is requesting to be able to have a left turn until that road is built, and then the median can be closed. Bartels concurred, and if the NDOR approves that application, they can probably do it. However, Public Works' recommendation to the state will be to not approve it. The applicant is requesting to widen the median to make the turns work. Public Works recommends that the 10-15 ft. median opening be closed to prevent it.

Response by the Applicant

Burt explained that the applicant shares the concern about the safety of O Street. If it was going to create an unsafe environment, the applicant would not be requesting it. The Thunderstone employees live east of this site, which means they will come in westbound making a right turn into the driveway. When they go home, they will drive to the east. Until the state creates the frontage road in 2011, these folks are going to be forced to do something different. He does not know whether that means an illegal u-turn, or going to NW 48th and hitting the interstate, or whether it is traveling through private property.

Hansen also stated that he is attempting to become eligible for TIF funds for this project. Is it possible to put some of those funds toward a left turn lane on the eastbound side of the street? Would that help any of this? Bartels presumes that it will be a public improvement on a public street so it would be eligible for TIF.

Esseks wonders how a left turn lane would change the Public Works recommendation to NDOR. Bartels explained that if there was the left turn provision, Public Works would agree to the median opening.

Strand wondered whether Public Works would agree to deleting the requirement to close the existing median if a left turn lane is provided. Bartels stated that Public Works would recommend approval of that.

ACTION BY PLANNING COMMISSION:

November 23, 2005

Strand moved to approve the staff recommendation of conditional approval, with amendment to Condition #1.1.3 to delete the requirement to close the existing median if a left turn lane is constructed; to delete Item #4.1 of the Public Works memo dated November 8, 2005, if a left turn lane is constructed; and to delete Item #4.2 of the Public Works memo dated November 8, 2005, which requires the construction of a right turn lane; and that Public Works has the right to waive the stormwater detention requirement if documentation is provided to their satisfaction to justify it, seconded by Esseks and carried 9-0: : Pearson, Sunderman, Strand, Larson, Taylor, Carroll, Esseks, Krieser and Carlson voting 'yes'. This is a recommendation to the City Council.

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ANNEXATION NO. 05014;
CHANGE OF ZONE NO. 05061,
SOUTHWEST VILLAGE PLANNED UNIT DEVELOPMENT;
and
CHANGE OF ZONE NO. 05062
FROM AG AGRICULTURAL DISTRICT AND
AGR AGRICULTURAL RESIDENTIAL DISTRICT
TO R-3 RESIDENTIAL AND R-4 RESIDENTIAL,
ON PROPERTY GENERALLY LOCATED
AT SOUTH FOLSOM STREET AND WEST DENTON ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

November 23, 2005

Members present: Pearson, Sunderman, Strand, Larson, Carroll, Esseks, Krieser and Carlson; Taylor absent.

Staff recommendation: Conditional approval of the annexation and PUD, and approval of the change of zone.

Ex Parte Communications: None.

Proponents

1. **Kent Seacrest** appeared on behalf of **Dial Realty** and the coalition of other developers who are proposing to open up southwest Lincoln after many years of effort. This area was designated in the 2002 Comprehensive Plan, and was designated for a Community Center as well as light industrial. This site well utilizes the West Bypass and we are about ready to talk about a proposed interchange at Warlick Boulevard & US 77. In addition to the commercial area, this proposal includes 100 acres of R-3 and R-4 Residential on the west side of Folsom Street which brings in rooftops along with the commercial.

2. **Rick Kiolbasa, Dial Realty**, stated that the developer has been working with staff on this proposal for over a year. They began with a 143-acre parcel and they were running into some floodplain issues, so the developer secured another 117 acres to make it a total of 260 acres, of which 80 acres, more or less, on the east side of Folsom Street is like a park and will be a conservation easement.

Kiolbasa advised that Dial has been in business for almost 50 years. This is probably a 10-year project from start to finish. In working through all the issues, the applicant and the staff have agreed on 95% of the issues 95% of the time. Kiolbasa believes they were able to work well with the staff and he expressed appreciation to the Planning Department staff.

Seacrest continued with his testimony, stating that this opens up southwest Lincoln, coordinating with the future interchange in a phased manner; the development is next to Cardwell Branch, resulting in a 70-acre conservation easement. This proposal meets the “no net rise” standards; they will be doing a temporary pump because the sewer won’t be there for a couple years; there will be a utility crossing of the sewer across Wilderness Park without disturbing the park.

Seacrest advised that they have held several neighborhood meetings and they met with the Friends of Wilderness Park.

Seacrest further observed that it is a challenge to open up a new sub-basin; however, they have reached agreement with staff on all but one condition of approval. Seacrest then submitted proposed amendments to the conditions of approval. The only issue is Condition #1.3, which Seacrest believes to be a misunderstanding.

Staff recommendation:

- 1.3 Revise references in Part 1c (page 6) of the development plan to refer to paragraph c, not paragraph b. Revise Part 1a(c)(2) on page 6 of the development plan to read "THE PUD MUST HAVE AT LEAST AN AGGREGATE OF OFFICE AND INDUSTRIAL USES OVER 500,000 SQUARE FEET."

Seacrest proposed amendment:

- 1.3 (Version #1): Revise references in Part 1c (page 6) of the development plan to refer to paragraph c, not paragraph b. Revise Part 1a(c)(2) on page 6 of the development plan to read "THE PUD MUST HAVE AT LEAST AN AGGREGATE OF OFFICE, **HOTEL, MOTEL**, AND INDUSTRIAL USES OVER 500,000 SQUARE FEET." *(Note: the Analysis #1, page 6, states that hotel and motels are included in the 500,000 square feet figure).*

(Version #2): Revise references in Part 1c (page 6) of the development plan to refer to paragraph c, not paragraph b. Revise Part 1a(c)(2) on page 6 of the development plan to read: "THE PUD MUST HAVE AT LEAST AN AGGREGATE OF OFFICE AND INDUSTRIAL USES OVER **400,000** SQUARE FEET". *(Note: I-3 permits up to 20% of the I-3 floor area to be retail and 10% of the I-3 floor area to be hotels and motels).*

Seacrest explained that the staff Condition #1.3 proposes to have an office/industrial cap of 500,000 sq. ft. The applicant believes motels and hotels should be included in that list of office and industrial to get over the 500,000 sq. ft. Seacrest believes there has been some confusion and misunderstanding because Analysis #1 in the staff report lists office, motel, hotel in industrial. This developer would like to have the hotel, motel uses. Version #1 of the proposed amendment to Condition #1.3 adds hotel, motel into the 500,000 sq. ft. If we don't want hotel, motel, then Version #2 reduces the 500,000 to 400,000 sq. ft. That is a 20% reduction. This goes back to the I-3 zoning which is the mixed use light industrial zone. Under the I-3 you are supposed to have minimum of 50 acres, and under the I-3, you are allowed to go up to 20% of that acreage in retail. So, if we did a straight I-3 of 50 acres, you would normally be able to do 20% or 100,000 sq. ft. of retail. The Comprehensive Plan language also talks about a light industrial area including retail. The developer can live with either version.

Larson asked Seacrest to explain the plan on the map. In showing the uses on the map, Seacrest stated that the developer will be rebuilding West Denton Road. The plan includes the power center type activities or larger box users, but also includes the smaller pads and

acreages. There will be office uses and they have included an innovative new housing product in the conservation easement area.

Larson inquired as to the uses proposed north of West Denton Road. Seacrest stated that those are the big boxes. The developer does not have any written leases on the big boxes with anyone at the present time, but it would be big enough for Super Target type stores. This proposal is consistent with the Comprehensive Plan because of the Community Center designation.

As a member of the Board of the Friends of Wilderness Park, Esseks expressed appreciation to the developer for consulting with the Board. Esseks referred to the map and inquired about the parcel that is east of US 77 going over to the railroad. Is there anything in this proposal that defines how that land will be used? Seacrest explained that to be the state's land; it is not part of Wilderness Park; and there is no change in land use other than being annexed with this application.

Esseks then referred to Exhibit "B", the Conservation Easement Agreement, where it states that, "Nothing herein shall be construed to give the general public the right of access or use of the Easement Area". He believes that to be in conflict if this is to be an easement to the public. Seacrest explained that it is an easement to the public for purpose of floodplain storage, management, sediment, pollution, wildlife and open space but not intended to be a park. There is a dedicated trail easement through it. There will be a minimum 20' bike trail that will run east and west and will go underneath US 77 and then that gets us into Wilderness Park. The rest was not intended to be a park.

Esseks asked for an explanation of the location of the trunk sewer line. Mark Palmer of Olsson Associates stated that they have been working with Wastewater Department on the sewerage of the southwest area and they have put that design on hold at the present time so he does not know the exact alignment or size. The developer is showing a 100' sewer and bike trail easement along the north side of the creek. They are looking into various options and ways to connect to the existing sewer system. The temporary pump station would be on the south side of the proposed on-ramp for the highway. From that point, they would be running a forced main along the west side of the existing W. Denton Road up to the north side of the intersection and then parallel in the state's right-of-way all the way to the existing sewer system. They are proposing to work with the state to cross the creek.

Esseks then referred to the Watershed Management comments dated September 13, 2005 and November 9, 2005, wherein they still had some questions. Seacrest believes that these questions have been addressed and Condition #4 only applies to the residential tract. Seacrest believes there is a meeting of the minds and all of the Watershed Management concerns in terms of flood storage will be addressed prior to scheduling these applications on the City Council agenda.

3. Steve Duvall, 1015 South 40th Street, testified in support. He agrees that this proposal is consistent with the Comprehensive Plan in that people will be able to live, shop, and travel; it will provide increased sales tax and property taxes. This is greatly needed and the project is very well done.

Opposition

1. Mike Carlin, 2700 West Paddock Road, testified on behalf of the Board of Directors for **Friends of Wilderness Park** in opposition. He agrees that the developer did do a good job of keeping the Friends of Wilderness Park informed and they had two meetings. However, even though according to the Comprehensive Plan we knew a community center and light industrial area would be going in here, they are a little taken aback at the scope and scale of what is proposed. It is much bigger than what they had expected. He does not believe it meets the definition of a “community center”. He believes it is more of a regional center with the three big box stores with dozens of smaller buildings and a lot of rooftop and pavement. It’s “too much too soon”. It is bigger than envisioned for that area and it is pretty much ahead of schedule. Most of the infrastructure is not scheduled to go into that part of town for some time, the biggest being the interchange, which is supposed to start in 2010. You can imagine the traffic going to three big box stores and the smaller businesses going through that interchange when it is under construction for two years. And since it is not something scheduled or planned in this timeline, even though the developer is offering to front the money, staff will be required to work on it while they still have scheduled items to work on in our planned growth. There will be a diversion of resources within staff that is not accounted for in all the other things we want to do in the city.

With regard to the sewage treatment plant, the Wastewater Facilities Plan shows the building of the treatment plant as a Tier II item. Carlin submitted that this much development will trigger the need to build that sewage treatment plant ahead of schedule. He is worried about the temporary sewer line and is worried about the word “abandonment”. Who is going to operate that temporary sewer line? Who owns and operates it? We don’t have a lot of pumps stations in the city. They don’t run on automatic. They break. It will take people, time and money to maintain them. Is that factored into the developer’s cost?

Carlin further pointed out that Denton Road is going to be two lanes. There will be a real choke point for traffic trying to get in and out of these businesses and big box stores. He does not believe that there should be a driveway on the north side of West Denton Road into the facility – that traffic should go all the way to Folsom before turning in. So there will be two lanes all the way to Folsom from Hwy 77 and then a right turn to get into the area where the big box stores are located.

In summary, Carlin suggested that we need to keep it in perspective and in proportion. It is too much and it is too soon.

2. Dale Schmidt, 6900 S. 1st Street, testified in opposition. He is not necessarily opposed to the proposal, but as a property owner that basically will be surrounded by this development, he wants to be on record trying to protect himself and some of his concerns. He owns three parcels – his access would extend past the old 1st Street tying into Denton Road. He can tolerate the loss of frontage from his property, but he wants to be certain that he does not lose access to his property, specifically the parcel on the south side of Pine Lake Road, which at this point, would not have access to anything. He realizes this is preliminary and he does not know what the state will be doing; however, he knows the state will be taking some of his property. He does not want to lose the accessibility to his property that he has had for 30 years. This will be the fourth road construction that he has dealt with and the overpass construction for Hwy 77 will be the fifth time he has gone through road construction in front of his property. He operates Pioneer Gardens & Nursery on the property and has had trees growing there since the fall of 1976 or 1977.

3. Richard Hill, 6705 S.W. 16th Street, testified in opposition. He has spoken with 12 property owners and none of them want a big shopping area here. We moved away from the city for a reason. We do not want retail stores next door to us. There will be a lot of competition with South Pointe. He does not believe this is necessary. He moved to the country for privacy and at night he can see the stars. These residents will lose the ability to access the night sky via the pollution caused by all of the lights in this project. He does not want to see parking lot lights from his residence. If necessary, he will go door to door and acquire signatures from every property owner within 1.5 mile of this project because he believes he would get close to 100% in opposition. Denton Road is a challenge during rush hour. By adding multiple dwellings – single family homes and apartments, it is not going to be an area for acreages and their owners to be happy and satisfied. This is not going to increase his property values. Please protect this area.

4. Jennifer Sheaff, 7601 Bobcat Circle, testified in opposition. How is this development going to affect South Pointe? The retailers there believe a new commercial development will affect their business and will shift the jobs. It will not create any more new jobs. She assumes the development of the retail space is to attract a lot of the business from the small

communities south of Lincoln. If Beatrice cannot support a Wal-mart, why do you want it up here? If this is built, she is concerned about further development of fast food and convenience stores from Hwy 77 south to Saltillo Road and further. This will have an effect on the night sky. With all the building going further and further out of town, what about Lincoln's core? What about all the current empty retail space? Why can't we work on improving those spaces? The infrastructure is already there. The newspaper is full of houses for sale. What happens to them? The prices of fuel and consumer goods are steadily increasing. How much more retail is this city going to be able to support? We are going to have acres of asphalt, garbage, and traffic. Will this developed area be in the floodplain? West Denton Road is going to have to be widened to four lanes. How many houses will have traffic in their front yard? The residential and commercial areas in the new development will be annexed. How about the existing homeowners that will be surrounded? The developer is proposing to pay for sewer and road improvements and be reimbursed later. Are you sure the Lincoln taxpayers want to pay for this? Why are not the property owners given the opportunity to purchase the land? If anything is to be done, she suggested that they build 5- or 10-acre lots with houses, with families, and green grass and trees. Build a big park. When is enough enough? When do we stop this sprawl?

5. Richard Esquivel, 733 W. Cuming, testified in opposition. He agreed with the concerns of the Friends of Wilderness Park, mainly the Comprehensive Plan and economic benefit to the City. None of these questions have been answered. Are the citizens going to be responsible for the cost of the infrastructure? Are my tax dollars going to support this development through TIF? They want three big box stores. Look at the trouble we are having with 84th and Adams with a Super Wal-mart. There are too many unanswered questions.

6. Jay Storz, 7200 W. Pleasant Hill Road, Denton, testified in opposition because he believes this development will create the type of urban sprawl that has diminished the quality of life in other similar cities across the country. He would hate to see Lincoln repeat the mistake that cities like Phoenix and Houston have made in the past. In Lincoln, there are so many vacant commercial lots and blighted areas – he suggested that those areas be redeveloped rather than developing open land on the periphery of the city. The type of unnecessary urban sprawl would do a lot to diminish what makes Lincoln special.

7. Richard Halvorsen, 6311 Inverness Road, testified in opposition. He is concerned about the traffic. He lives south of Old Cheney and 14th Street, and it is almost grid-locked for an hour before and after rush hour. Warlick Boulevard is also already busy. With this big of a development, he does not see how the infrastructure can support the additional traffic.

Staff questions

Strand asked staff to respond to the motions to amend the conditions of approval by Seacrest. Brian Will of Planning staff stated that the staff agrees with the motion to amend with the exception of Condition #1.3. The rationale is that the Comprehensive Plan has two designations that allow for the employment center. Generally speaking, the commercial floor area would be 300,000-500,000 sq. ft.. The employment center designates the area for I-3 uses. Typically, I-3 districts are 75 acres. So, you are looking at an employment center in the range of 750,000 sq. ft. Through the development review process, a compromise was struck in that the community center was allowed to expand beyond 500,000 sq. ft., absorbing some of the commercial area that would normally be allowed, with the understanding that the employment center provide office and industrial uses no less than 500,000 sq. ft. As the proposal exists, it shows 1.3 million sq. ft. of floor area and the hotels and motels are outside of the floor area requirement. There is 800,000 in the commercial center, but we want to maintain a minimum cap of 500,000 sq. ft. for the I-3. This is consistent with the Comprehensive Plan. The Comprehensive Plan is trying to provide for those industrial employment areas to provide for economic development.

Esseks noted that one of the witnesses testified that what is being proposed exceeds the definition of a "community center". Will responded, stating that typically the Comprehensive Plan describes 300,000 to 500,000 sq. ft.; however, there is language to allow up to 1,000,000 sq. ft. provided certain incentive criteria is met. This proposal does meet some of the incentive criteria.

Sunderman asked staff to respond to the driveway issue raised by Mike Carlin on behalf of the Friends of Wilderness Park. Will explained that there will be a full turning movement intersection "at this point here" (pointing to the map) that allows access into the center. Staff has reconsidered their position and has agreed to allow "this driveway" (pointing to the map) to also remain with "full turning movement here" (pointing to the map).

Carroll inquired about access to the nursery property. Will indicated that Mr. Schmidt currently has access off of public right-of-way. For the alignment proposed with this development, it will require the vacation of existing public right-of-way. Mr. Schmidt will have to be a party to that and voluntarily agree to any actual vacation of that right-of-way. That vacation will not occur without his agreement. All lots have to have access to public right-of-way.

Response by the Applicant

Seacrest reiterated that this proposal is consistent with the Comprehensive Plan. This property was designated "community center" and light industrial back in 2002, and the proposal got stuck about a year and a half ago. It was chosen because this was anticipated

to be an interchange on a major road. The Comprehensive Plan does allow community centers to go up to 1,000,000 sq. ft., and this proposal is in conformance with the language in the Comprehensive Plan. Seacrest does not believe this development is too soon. It is in Tier I, Priority A (the one to twelve year, first out of the chute) area. This was a key piece of the Comprehensive Plan in 2002 because some wanted to open up Stevens Creek and some wanted to open up southwest Lincoln. This came in as a package so that they would both open up. This proposal follows through with that commitment in 2002 to make sure both areas open up.

With regard to “urban sprawl”, Seacrest reiterated that this proposal is in full conformance with the Comprehensive Plan, and if that is urban sprawl, he disagrees.

Seacrest also reiterated that this proposal includes a temporary pump, but Lincoln has about 20 temporary pumps. The city will maintain the pump. The developer will pay to operate that pump and the city will do the staffing.

As far as the traffic issues, Seacrest stated that the Comprehensive Plan shows West Denton Road and Folsom Street as four lanes and that is what the Southwest Village plan shows. Southwest Village will be built in phases. The annexation agreement will address when the third and fourth lanes will be constructed. We don’t need four lanes day one.

Seacrest confirmed that the developer will work with Mr. Schmidt for access to his property. His access is through the conservation easement area.

Seacrest reiterated that they did hold several full neighborhood meetings. He acknowledged that there are acreages to the west, but this isn’t the only thing that will upset the acreage owners.

Seacrest disagreed that this proposal does not create new jobs. The whole idea of the light industrial is to get new jobs. Too much of our light industrial land is in the floodplain. This is land that is not in the floodplain. This is a new site that will be able to be marketed by the Chamber of Commerce. This proposal increases the floodplain capacity. We are digging it out. We are exceeding no net rise.

In addition, Seacrest pointed out that this developer will be paying over 5 million dollars in impact fees.

Seacrest reiterated the request to adopt Version #1 or Version #2 of his proposed amendment to Condition #1.3. This developer would like to go down to 400,000 sq. ft. or live with 500,000 sq. ft. with motels and hotels.

ANNEXATION NO. 05014

ACTION BY PLANNING COMMISSION:

November 23, 2005

Strand moved approval, with conditions, seconded by Carroll.

Pearson stated that her comments now relate to the entire proposal. She is a big fan of all three of the representatives on the developer team. In general, she believes the plan is well thought-out, except for the three big boxes plopped down in a relative area that has acreages. She does not believe that we are sentimental enough about lifestyle issues. If a big box moved into her back yard she would be very upset. These people have been out here a lot longer than a Super Target. "Build it and they will come, 24 hours a day." She will not support it.

Esseks also commented that it is a shame that lifestyles are disrupted. It is most important to enjoy one's home, but before he arrived on this Commission, this community decided on growth and they have a formal process agreed upon as to where growth should occur. This area was designated for commercial growth. If we want to discourage such growth, we have to do it in the planning process. His hands are tied. He will have to vote according to what the plan specifies. He believes it would be inappropriate to vote no, but he wishes he could.

Motion for conditional approval carried 7-1: Sunderman, Strand, Larson, Carroll, Esseks, Krieser and Carlson voting 'yes'; Pearson voting 'no'; Taylor absent. This is a recommendation to the City Council.

CHANGE OF ZONE NO. 05061,
SOUTHWEST VILLAGE PLANNED UNIT DEVELOPMENT

ACTION BY PLANNING COMMISSION:

November 23, 2005

Strand moved to approve the staff recommendation of conditional approval, with the amendments proposed by Kent Seacrest, except Condition #1.3 to remain as recommended by staff, seconded by Esseks and carried 6-2: Sunderman, Strand, Carroll, Esseks, Krieser and Carlson voting 'yes'; Pearson and Larson voting 'no'; Taylor absent. This is a recommendation to the City Council.

CHANGE OF ZONE NO. 05062

ACTION BY PLANNING COMMISSION:

November 23, 2005

Strand moved approval, seconded by Carroll.

As far as the impact on acreages, Strand stated that she is a strong proponent of acreages and supports acreage growth. She grew up on an acreage, but, unfortunately, it was located

close to town and the town grew out and it is now Buckingham South. It happens. The city grows out to the acreages. You are either forced to move further out or you are forced to live with the city. This is a zoning issue.

Motion for approval carried 8-0: Pearson, Sunderman, Strand, Larson, Carroll, Esseks, Krieser and Carlson voting 'yes'; Taylor absent. This is a recommendation to the City Council.

SPECIAL PERMIT NO. 05050

HUNTERS POINTE TOWNHOMES COMMUNITY UNIT PLAN,

ON PROPERTY GENERALLY LOCATED

AT NO. 20TH STREET AND BENTON STREET.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: November 23, 2005

Members present: Pearson, Sunderman, Strand, Larson, Esseks, Krieser and Carlson; Carroll declaring a conflict of interest; Taylor absent.

Staff recommendation: Conditional approval.

Ex Parte Communications: None.

The Clerk announced that the applicant has submitted a request for an additional four-week deferral until December 21, 2005.

Additional information submitted for the record: Tom Cajka of Planning staff submitted a letter in opposition from Bill Hoffman with concerns about grading, density and increased traffic.

Tom Huston appeared on behalf of the applicant and requested a four-week deferral.

Strand moved to defer, with continued hearing and action on December 21, 2005, seconded by Sunderman and carried 7-0: Pearson, Sunderman, Strand, Larson, Esseks, Krieser and Carlson voting 'yes; Carroll declaring a conflict of interest; Taylor absent).

There being no further business, the meeting was adjourned at 3:30 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on December 7, 2005.